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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,063	03/16/2004	Dennis Gonsalves	07678/035007	5181
21559	7590 12/29/2005		EXAM	INER
	ELBING LLP		LI, BA	40 Q
	101 FEDERAL STREET BOSTON, MA 02110			PAPER NUMBER
			1648	

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. 10/803,083 GONSALVES ET AL. Examiner Bao Qun Li - The MAILING DATE of this communication appears on the cover sheet with the correspondence address — ad for Reply SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEYER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be limely filled after SIX (8) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (e) MONTHS from the mailing date of this communication. If NO period for reply is appelled above, the maximum statutory period will apply and will expire SIX (e) MONTHS from the mailing date of this communication. If NO period for reply is appelled above, the maximum statutory period will apply and will expire SIX (e) MONTHS from the mailing date of this communication. If NO period for reply is appelled to the power of the provision of the communication. If NO period for reply is applicated period for reply will, by statuse, cause the application to become ABANDONED (35 u.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filled, may reduce any search provision and the provision of the second of the maximum status of the maximum status of the maximum status of the maximum status of the second of the se				ıt
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Disposition of Claims 4) Claim(s) <u>1-63</u> is/are pending in the app 4a) Of the above claim(s) _____ is/are 5) Claim(s) is/are allowed. 6)⊠ Claim(s) 1-63 is/are rejected. 7) Claim(s) _____ is/are objected to. 8) Claim(s) are subject to restrictio **Application Papers** 9) The specification is objected to by the E 10) The drawing(s) filed on is/are: a Applicant may not request that any objection Replacement drawing sheet(s) including th 11) The oath or declaration is objected to be Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for a) All b) Some * c) None of: 1. Certified copies of the priority do 2. Certified copies of the priority do 3. Copies of the certified copies of application from the Internationa * See the attached detailed Office action Attachment(s) 1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s)/Mail Date. _ 5) Notice of Informal Patent Application (PTO-152) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 6) Other: U.S. Patent and Trademark Office PTOL-326 (Rev. 7-05) Office Action Summary Part of Paper No./Mail Date 12272005

Period for Reply

Status

Art Unit: 1648

DETAILED ACTION

Claims 1-63 are pending.

Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-15, drawn to an isolated protein or polypeptide, classified in class 530, subclass 300.

If group I invention is elected, an additional restriction to one of the follow groups of inventions are further required under 35 U.S.C. 121:

- i). The isolated protein is replicase;
- ii). The isolated protein is a coat protein;
- iii). The isolated protein is a triple gene block;

If group i) is elected, an additional restriction to one of the follow groups of inventions are further required under 35 U.S.C. 121:

- A. The isolated protein comprises SEQ ID NO: 3.
- B. The isolated protein comprises SEQ ID NO: 14.
- C. The isolated protein comprises SEQ ID NO: 25.

If group ii) is elected, an additional restriction to one of the follow groups of inventions are further required under 35 U.S.C. 121:

- a). The isolated protein comprises SEQ ID NO: 11.
- b). The isolated protein comprises SEQ ID NO: 22.
- c). The isolated protein comprises SEQ ID NO: 33.

If group iii) is elected, an additional restriction to one of the follow groups of inventions are further required under 35 U.S.C. 121:

- 1). The isolated protein comprises SEQ ID NO: 5.
- 2). The isolated protein comprises SEQ ID NO: 16.
- 3). The isolated protein comprises SEQ ID NO: 27.
- 4). The isolated protein comprises SEQ ID NO: 7.

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- 5). The isolated protein comprises SEQ ID NO: 18.
- 6). The isolated protein comprises SEQ ID NO: 29.
- 7). The isolated protein comprises SEQ ID NO: 9.
- 8). The isolated protein comprises SEQ ID NO: 20.
- 9). The isolated protein comprises SEQ ID NO: 31.
- II. Claims 16-38, drawn to an isolated protein polynucleotide molecule and a host cell comprising same classified in class 536, subclass 23.72.

If group II invention is elected, an additional restriction to one of the follow groups of inventions are further required under 35 U.S.C. 121:

- i). The isolated polynucleotide encodes replicase;
- ii). The isolated polynucleotide encodes a coat protein;
- iii). The isolated polynucleotide encodes a triple gene block;

If group i) is elected, an additional restriction to one of the follow groups of inventions are further required under 35 U.S.C. 121:

- D. The isolated polynucleotide encodes a protein comprises SEQ ID NO: 3.
- E. The isolated plynucleotide encodes a protein comprises SEQ ID NO: 14.
- F. The isolated polynucleotide encodes a protein comprises SEQ ID NO: 25.

If group ii) is elected, an additional restriction to one of the follow groups of inventions are further required under 35 U.S.C. 121:

- a). The isolated polynucleotide encodes a protein comprises SEQ ID NO: 11.
- b). The isolated polynucleotide encodes a protein comprises SEQ ID NO: 22.
- c). The isolated polynucleotide encodes a protein comprises SEQ ID NO: 33.

If group iii) is elected, an additional restriction to one of the follow groups of inventions are further required under 35 U.S.C. 121:

- 1). The isolated polynucleotide encodes a protein comprises SEQ ID NO: 5.
- 2). The isolated polynucleotide encodes a protein comprises SEQ ID NO: 16.

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3). The isolated polynucleotide encodes a protein comprises SEQ ID NO: 27.

- 4). The isolated polynucleotide encodes a protein comprises SEQ ID NO: 7.
- 5). The isolated polynucleotides encodes a protein comprises SEQ ID NO: 18.
- 6). The isolated polynucleotide encodes a protein comprises SEQ ID NO: 29.
- 7). The isolated polynculeotide encodes a protein comprises SEQ ID NO: 9.
- 8). The isolated polynucleotide encodes a protein comprises SEQ ID NO: 20.
- 9). The isolated polynucleotide encodes a protein comprises SEQ ID NO: 31.
- III. Claims 39-45, drawn to a transgenic vitis and method for making same, classified in class 800, subclass 296.

If group III invention is elected, an additional restriction to one of the follow groups of inventions are further required under 35 U.S.C. 121:

- i). The transgene encodes a replicase;
- ii). The transgene encodes a coat protein;
- iii). The transgene encodes a triple gene block;
- IV. Claims 48-47, drawn to an antibody biding to protein or polypeptide, classified in 424, subclass 130.1.

If group IV invention is elected, an additional restriction to one of the follow groups of inventions are further required under 35 U.S.C. 121:

- i). The antibody recognizes a replicase;
- ii). The antibody recognizes a coat protein;
- iii). The antibody recognizes a triple gene block;
- V. Claims 48-61, drawn to a method and a primer used for detecting a rupstirs pitting associated virus, classified in class 435, subclass 5.

If group V is elected, an additional restriction to one of the follow groups of inventions are further required under 35 U.S.C. 121:

1). The oligonucleotide primer is SEQ ID NO: 41.

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- 2). The oligonucleotide primer is SEQ ID NO: 42.
- 3). The oligonucleotide primer is SEQ ID NO: 43.
- 4). The oligonucleotide primer is SEQ ID NO: 44.
- 5). The oligonucleotide primer is SEQ ID NO: 45.
- 6). The oligonucleotide primer is SEQ ID NO: 46.
- 7). The oligonucleotide primer is SEQ ID NO: 47.
- 8). The oligonucleotide primer is SEQ ID NO: 48.
- 9). The oligonucleotide primer is SEQ ID NO: 49.
- 10). The oligonucleotide primer is SEQ ID NO: 50.
- 11). The oligonucleotide primer is SEQ ID NO: 51.
- 12). The oligonucleotide primer is SEQ ID NO: 52.
- 13). The oligonucleotide primer is SEQ ID NO: 53.
- 14). The oligonucleotide primer is SEQ ID NO: 54.
- VI. Claims 62-63, drawn to a isolated DNA molecule, classified in 536, subclass 23.1 If group VI invention is elected, an additional restriction to one of the follow groups of inventions are further required under 35 U.S.C. 121:
- i). The DNA molecule is SEQ ID NO: 34;
- ii). The DNA molecule is SEQ ID NO: 35;
- iii). The DNA molecule is SEQ ID NO: 36.
- iv). The DNA molecule is SEQ ID NO: 37.
- v). The DNA molecule is SEQ ID NO: 38;
- vi). The DNA molecule is SEQ ID NO: 39;
- vii). The DNA molecule is SEQ ID NO: 40.

The inventions are distinct, each from the other because of the following reasons:

Inventions A to C are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different The inventions are distinct, each from the other because of the following reasons: inventions are

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directed to structurally different products. For example, the product of replicase differs from coat protein or triple gene block in structure and in function. The search for replicase does not need to search coat protein or triple block gene produce and they do not overlap each other.

Inventions i) to vii) are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are directed to structurally different products. For example, the product of replicase differs from coat protein or triple gene block in structure and in function. The searching SEQ ID NO: 11 does not overlap SEQ ID NO: 22 or other sequence or vise versa.

Inventions 1 to 14 are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case, the different inventions are directed to structurally different products. For example, the product of SEQ ID 3 differs from product of SEQ ID NO: 14 in structure and in function. The search for SEQ ID NO: 3 does not need to search SEQ ID NO: 14 or vise versa.

Inventions I to VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of using together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are directed to structurally different products. For example, the product of group I is a protein, whereas the product of group II is a polynucleotide, the product of group III is a transgenic plant. Moreover, searching protein database is different from searching polynucleotide sequence base. If searching all of them together constitutes a serious burden.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and the literature and sequence searches required for one of the Groups are not required for another one of the Groups, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bao Qun Li whose telephone number is 571-272-0904. The examiner can normally be reached on 7:00 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel can be reached on 571-272-0902. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BAOQUN LI, MD PATENT EXAMINER

12/27/2005